

The Government has taken no action for the Jowdy premeditated frauds on the Kenner and Kenner investors in Hawai'i, even with the knowledge of Jowdy's past and ongoing frauds (*See Kenner Rule 6(e) Motion @ 21-40*), blatant lies to the FBI, and calculated lies to various Federal Courts, not limited to the EDNY (*in his 2016 declaration*).

Sydor's *faulty memory, confusion and mistakes* continued to the benefit of the Government's concealment theories when Sydor claimed he never saw the Northern Trust February 2009 and March 2009 default letters until the week before his 2015 appearance. *Tr. 2166-2167*. Both letters were mailed to Sydor's address of record with Northern Trust bank. *See TIMELINE 053, 054*. In addition, after receiving the 2<sup>nd</sup> letter, Sydor confirmed it to Kenner via text (*clearly refuting his 2015 "memory" of it*).<sup>125</sup>

Kristen Peca (*See GSF-Kristen Peca acknowledgment & approval-SMC-00000001 to SMC-00000045-GSF docs*) independently returned the Acknowledgment emails to Constantine for the specific GSF "*use of funds*".

In fact, it further exposes Kristen Peca's erroneous claims that they did not want any more investments (*Tr.717-718*) with the GSF contribution, when she emailed Kenner May 18, 2009 with:

*"Hey, before we sign off on an "approved" letter, can we please have the written documentation as to exactly how much (%) we obtained with our contribution?"*

Kristen Peca's demand compliments Mike Peca's similar text request for investment equity confirmations the day after the GSF meeting in Ohio, and further impeaches her credibility or *faulty memory, confusion and mistakes*, as follows:

[Mike Peca to Kenner]

7042	+1716374 3234 Michael Peca*	5/9/2009 2:04:59 PM(UTC+ 0)	R e a d	Make sure I get a statement of somekind to where my \$250k is going. <b><i>How much in ea of the two companies</i></b> . Thanks
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Clearly – both Mike Peca and his wife were aware and anxious to get the extra equity in the "other GSF deals" – despite their 2015 perjurious testimony to the opposite.

<sup>125</sup> [From Sydor to Kenner]

6079	+1972523050 5 Darryl Sydor*	3/23/2009 12:22:01 AM(UTC+0)	R e a d	<b><i>What's this letter from northern trust all about</i></b>
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Later that same evening, Sydor further confirmed his receipt of the DEFAULT letter, when he told Kenner via text:

*“K just leave me a message I am just worried about this letter from northern trust saying I owe 855,k right now cause I failed to pay it.”*<sup>126</sup>

Sydor's text on March 23, 2009 matched the default letter mailed to him from March 19, 2009 stating:

*“The amount now outstanding under the Note...as of today’s date of \$855,351.”*

After denying in 2015 his previously, self-confirmed receipt of the default letter, the Government pressed Sydor again, to which Sydor claimed:

*“If I saw this letter and it said Notice of Default and Intent to Sell Collateral, I would remember that, yes.” Tr.2191.*

**Plainly, Sydor did not.** The Government had the Sydor texts when they prepped him for 3-4 hours the week before he took the stand (*Tr.2188*) (*as Sydor confirmed at trial*). The Government had the Sydor Northern Trust LOC documents. They had the Default Letter, yet, somehow, all of that resulted in Sydor's uncorrected testimony that he had no idea about any of it, with all of the refuting empirical evidence in the government's hands and withheld from the jury.

6080	+1972523050 5 Darryl Sydor*	3/23/2009 12:25:25 AM(UTC+0)	R e a d	<i>No I just got home but I had a fed ex letter and also the one from steph.</i>
6081	+1972523050 5 Darryl Sydor*	3/23/2009 12:26:39 AM(UTC+0)	R e a d	<i>Yeah but what's the other one its cc'd to u also.</i>

<sup>126</sup> [From Sydor to Kenner]

6126	+1972523 0505 Darryl Sydor*	3/24/200 9 6:07:12 PM(UTC +0)	R e a d	<i>K just leave me a message I am just worried about this letter from northern trust saying I owe 855,k right now cause I failed to pay it. Leave me a message. And I can call u after our game. Cause this is going to hurt my credit and I don't have 855 k.</i>
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Notwithstanding the fact that Sydor was “foggy” during his 2015 testimony, clearly contradicting empirical evidence in the Government's possession and ignored from Rule 16, Sydor had made it very clear to the SDNY Grand Jury in 2011 (*four [4] full years earlier – perhaps with fewer CTE symptoms*) that he knew his Little Isle 4 capital account funds were loaned to Jowdy (*from Hawai'i*) and the repayment of the loans would have resulted in Little Isle 4 receiving the money, not him personally. See R33 467f.

Sydor referred to the decision to lend to Jowdy as “we”. His 2011 testimony confirmed the transparency of his pre-loan knowledge of the Hawai'i agreement with Jowdy and his agreement. Sydor confirmed in 2011 to the SDNY Grand Jury:

Q: Was that also for Little Isle 4 as far as you know?

A: Yes, but then **we put it towards Cabo for a short-term loan to Mr. Jowdy** until Lehman Brothers came up with the money that was supposed to be paid back.

Q: **Did you know in advance** that it was going to be used, this Little Isle 4 money, to be used to salvage the Cabo investment?

A: **Yes. It was to help with the short-term loan to keep funding the Cabo,** then it was supposed to be paid back, but that's –

Q: Paid back to you or paid back to Little Isle 4?

A: **Paid back to Little Isle 4.**

Q: So –

A: **Back to Hawai'i, not to me personally.**

Q: But that didn't happen?

A: That didn't happen. And Lehman came up with \$129 million loan. **It was supposed to be back at closing.**

Steve Rucchin<sup>127</sup> followed the same Northern Trust protocol when his account closed in 2009. Rucchin's March, April and May 2009 statements (*See FOLDER -- Rucchin*

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<sup>127</sup> Just as Mike Peca, Bryan Berard, Sergei Gonchar, Glen Murray and Mattias Norstrom did, they received the Northern Trust default letters:

- 1) They communicated directly by phone with Mascarella and Brill from Northern Trust (*after Kenner's text notifications*),
- 2) They independently approved the seizure of their Northern Trust collateral,
- 3) They independently signed multiple Northern Trust wire transfer requests,